SUPREME COURT, U.S.
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No. 80-779

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 1980

CONCERNED JEWISH YOUTH,

Petitioner,

-against-

ROBERT J. McGUIRE, in his official capacity as Police Commissioner of the City of New York, EDWARD KOCH, in his official capacity as the Mayor of the City of New York, and the NEW YORK CITY POLICE DEPARTMENT,

Respondents.

# BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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## Question Presented

Are the restrictions on demonstrations at the Missions to the United Nations of the Union of Soviet Socialist Republics and the Ukrainian Soviet Socialist Republic ("Soviet Mission") reasonable and necessary? The restrictions, which were modified on December 11, 1980, are:

(a) Demonstrators wishing to use amplified sound equipment must apply to the New York City Police Department for a permit as required by Administrative Code §435-6.0.

(b) Demonstrations on the Mission block are limited in size to twenty-five persons in an area diagonally across the street from the Mission. Silent vigils in front of the synagogue across the street from the Mission and symbolic approaches to

the Mission are also facilitated by the Police Department.

(c) There are no restrictions on demonstrations at the Soviet Mission on streets adjacent to the Mission.

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## Statement of the Case

This is an action under 42 U.S.C. §1983. In it petitioner Concerned Jewish Youth ("CJY") seeks a declaration that the restrictions applied to demonstrations at

the Soviet Mission by the New York City Police Department are unconstitutional as violative of the first and fourteenth amendments.

On January 2, 1979, CJY moved by order to show cause for a temporary restraining order and preliminary injunction restraining the police from applying the restrictions on demonstrations at the Soviet Mission to demonstrations by CJY's members at the Mission.

A hearing on CJY's application for a preliminary injunction was had.

In an opinion dated May 25, 1979, Judge Pollack denied CJY's application for a preliminary injunction (A. 56).*

*References in this brief to the record are as follows: A -- petitioner's appendix; Tr. -- transcript of the March 1, 1979 hearing on CJY's motion for a preliminary injunction.

The parties consented to, and the Court below ordered, a consolidation of the hearing with a trial of the action on the merits. The Court dismissed the complaint in an order dated June 25, 1979.

The United States Court of Appeals for the Second Circuit (Moore and Waterman, J. J.; Mansfield, J. dissenting), affirmed the decision of the United States District Court for the Southern District of New York.

## Statement of Facts

### 1. The restrictions applied to demonstrations at the Soviet Mission

The following restrictions are applied to demonstrations at the Soviet Mission:

Demonstrations on the Mission block are limited in size to twenty-five

persons in an area diagonally across the street from the Mission.*

There are no restrictions on demonstrations at the Soviet Mission on streets adjacent to the Mission (Tr. 143-44).

The Police Department applies these restrictions to all demonstrations at the Mission and does not discriminate on the basis of the content of the expression (Tr. 145).

The Police Department enforced these restrictions at a demonstration held by CJY's members on June 13, 1978. On that day, sixteen CJY members, equipped

*The district court below sanctioned a restriction of twelve persons in the demonstration area. However, that number has been increased to twenty-five by the New York State Supreme Court. Millan House, Inc. v. Murphy, N.Y.L.J., Nov. 20, 1980, at 10, col. 4. (Sup. Ct. Nov. 19, 1980).

with a sound device, arrived at the Soviet Mission. They were informed that twelve of their number could demonstrate in the designated area, and the others could demonstrate in an area adjacent to the Mission block on Lexington Avenue and 67th Street. They were also informed that although they could not use their loud-speaker on the Mission block, they could use it in the adjacent area. The demonstration was held in accordance with those guidelines (Tr. 28).

In October, 1978, CJY filed a complaint alleging that the restrictions were constitutionally impermissible and seeking an injunction against their further enforcement.

2. The Demonstration Area

Up to twenty-five persons may demonstrate in an area approximately

28' x 14' on the north side of 67th Street, diagonally across the street from the Soviet Mission. Captain Selvaggi, the Commander of the 19th precinct, in which the Mission is located, testified that this area is the only appropriate place on the Mission block for demonstrations. His testimony reveals that on the north side of the street is the Kennedy Child Care Center, a school for retarded children, the 19th precinct station-house, a firehouse, and a synagogue. The demonstration area is located on the wide part of the sidewalk in front of an apartment house. Captain Selvaggi also testified that the south side of the street adjacent to the Mission is similarly inappropriate for demonstra-

tions. There is a bank that has a large plate glass window facing the street on the southeast corner of the block. There is an apartment house next door to the Mission on the southeast corner. There, only 6 feet of the sidewalk is unobstructed, making that area too narrow for demonstrations. A public garage is next door to the Mission on the southeast corner. The mission is not visible from either corner (Tr. 127-30).

There is enough space on the sidewalk in front of the Mission for demonstrations. However, the Police Department does not allow demonstrations to be held directly in front of the Mission.

3. The Testimony at Trial

Petitioner called one witness, Wayne Perlmutter, co-chairman of CJY.

Mr. Perlmutter admitted that some members of CJY were also members of the Jewish Defense League ("JDL") and that they "undoubtedly""identify with their violence and militancy." (Tr. 16)

It was Mr. Perlmutter's opinion that the restrictions on demonstrations at the Mission were unreasonable (Tr. 73).

Four expert witnesses from the Police Department testified for the respondents. It was their opinion that the restrictions on demonstrations at the Soviet Mission are reasonable and necessary.

Detective Richard Rosenthal testified that he infiltrated the JDL as an intelligence agent. As a JDL member he attended many demonstrations at the Soviet Mission. Detective Rosenthal

described several specific instances of violence that occurred at these demonstrations. For example, he saw a man pushed through a plate glass window and saw police officers assaulted by demonstrators (Tr. 84). He also testified that JDL members deliberately goaded peaceful demonstrators to violence and that this "was very easy to do" (Tr. 84). Detective Rosenthal further testified that the police "have no hope" of controlling a large number of demonstrators in the Mission block because it is too narrow an area (Tr. 81-87).

Detective Santo Parola of the Arson and Explosives Division of the Police Department was the next witness. He testified that foreign missions are frequent targets of terrorist bombings.

He stated that there had been hundreds of such incidents in the last few years (Tr. 99). He explained that among the tactics used by terrorist groups to plant bombs was the infiltration of peaceful demonstrations to permit the terrorists to approach the target without attracting the attention of the police. In his testimony, in response to questions by the court, he indicated that there is a reasonable likelihood of danger to the Mission if even very small groups of less than 10 persons are allowed to picket in front of the Mission:

> "THE COURT: In your judgment, would it make any difference whether the group was small or large that was allowed to peacefully appear directly in front of the Soviet Mission?

THE WITNESS: No, sir, I don't think it would make any difference at all.

THE COURT: What is the basis for that opinion?

THE WITNESS: Again, your Honor, based on prior investigations we have learned over the past years that regardless of the fact that you could have a demonstration which consists of 10 or less or 10 or more, if they were able to show that the demonstration that was taking place was of a peaceful nature, it would sort of tend to relax the police at the facility. They in turn would infiltrate with one or two of the more violence-prone types and

just walk back and forth with them just to get really close to the place. If they can get really close to any particular mission, not just the Russian Mission, any place throughout the city, they would be in a position to drop a small device with a timing mechanism in it that would be timed to blow up an hour or so later." (Tr. 93-98).

David Fallek, a retired Police Inspector who commanded four precincts, including the 19th, testified that in his opinion the restrictions at the Mission are necessary in order to maintain peace there and that any demonstration on the Mission block presents a significant danger to the police (Tr. 112-14).

Captain Mario Selvaggi, Commander of the 19th precinct, testified that in his opinion the personnel of foreign missions would not hesitate to use deadly physical force to expel demonstrators who attempt to enter a mission and that if demonstrators were allowed to congregate on the sidewalk in front of a mission it would make it much more difficult for the police to prevent such dangerous confrontations (Tr. 125, 132-34).

He also testified that at one demonstration at the Soviet Mission the Mission's security guards were told that the police might not be able to prevent the demonstrators from attempting to enter the Mission. In response, on the ground floor of the Mission the Mission's security guards set up machine guns (Tr. 125).

4. The Opinions Below

The district court below held (A 87):

> Upon due consideration of the facts and circumstances presented, the Court finds that the substantial interest which the United States has in protecting the personnel and premises of foreign diplomatic missions precludes the grant of preliminary injunctive relief. Rubenstein v. Murphy, No. 71 Civ. 2291 (S.D.N.Y. May 26, 1971) (Croake, J.); Greenberg v. Murphy, 329 F. Supp. 37 (S.D.N.Y. 1971) (Gurfein, J.). There is substantial empirical evidence that to allow expanded demonstrations in front of the Soviet Mission would unduly and unnecessarily impair this interest. The area presently designated for picketing was selected for reasons which make sound sense under the special conditions existing on the block; the requirement that after dark, demonstrators are asked to reduce the noise level is entirely reasonable; the objects of the police to accomodate [sic] both the demonstrators' rights of assembly and the right of nondemonstrators to peaceful

and unobstructed passage consistent with safety meets fundamental concerns fairly. Basically the whole subject matter is one of degree and judgment and no better yardsticks than the ones employed are presented or apparent.

The restrictions complained of apply to demonstrators and amplified noise immediately in front of the Soviet Mission. There are no similar limitations in the overflow adjacent areas. The case for irreparable harm has not been made out at this time. Indeed the character of this street and the pattern of usual activity on it strongly suggest that the restrictions herein are reasonable both as to numbers of demonstrators and the use of amplified sound equipment in the immediate area.

> Balancing the interests at stake herein, the police restrictions upon picketing and amplified noise in the immediate vicinity of the Soviet Mission clearly pass constitutional muster, certainly so far as concerns a demand for provisional relief. The restrictions at issue do not unduly or unnecessarily abridge the exercise of the plaintiff's members' liberty of expression in this area. They are reasonably narrow enough so as to afford the right of demonstrators to express their views in numbers and noise sufficient to carry their message without unreasonable impediment. The numerical restrictions have been sufficiently time-tested over the years, without any apparent swell of complaint thereof and it may be reasonably inferred that no really undue restraints are felt by those inclined to demonstrate for their causes against the Mission. This conclusion does not suggest in any way that the motivation of the plaintiff and its members is other than laudable and their intentions peaceful. (emphasis added).

The United States Court of Appeals for the Second Circuit affirmed the opinion of the district court in all respects.

## ARGUMENT

### THE DECISION BELOW IS CONSONANT WITH PRIOR HOLDINGS OF THIS COURT AND OF THE DISTRICT OF COLUMBIA CIRCUIT.

The decision of the court below is not in conflict with the body of this Court's first amendment analysis. On the contrary, the decision was logically compelled by that tradition.

### A. THE RESTRICTIONS ON DEMONSTRATIONS AT THE SOVIET MISSION DO NOT ABRIDGE PETITIONER'S FIRST AMENDMENT RIGHTS.

The court below held that the restrictions herein were reasonable and necessary to further the substantial interest the United States has in protecting the personnel and premises of foreign diplomatic missions. This decision is consonant with this Court's prior holdings.

(1)

Although demonstrations in public places are accorded first amendment protection, the protection afforded is not absolute. Mr. Justice Goldberg, writing for this Court in Cox v. Louisiana, 379 U.S. 536 (1965) concluded:

> The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty would be lost in the excesses of anarchy.... 379 U.S. at 554-55.

In reaching its conclusion, this Court stated that the protection afforded by the first amendment to parading was far more limited than that afforded to "pure speech":

> We emphatically reject the notion urged by appellant that the First and Fourteenth Amendments afford the same kind of freedom to those who would communicate ideas by conduct such as patrolling, marching, and picketing on streets and highways, as these amendments afford to those who communicate ideas by pure speech.... 379 U.S. at 555.

Consequently, this court held that the state may impose reasonable restrictions on the time, place, duration and manner of demonstrations. Cox v. Louisiana, supra.

Discretion to devise restrictions on demonstrations may be vested in local officials by statute. Cox v. Louisiana, 379 U.S. 536, 558 (1965). Here, such discretion is vested in the Police Commissioner by Section 435 of the New York City Charter.

Section 435 of the New York City Charter enjoins the Police Department to "preserve the public peace ... disperse unlawful or dangerous assemblages ... regulate, direct, control and restrict the movement of vehicular and pedestrian traffic for the proper protection of human life and health...," thereby vesting discretion in the Police Department concerning the time, place and manner of use of the streets for, inter alia, demonstrations. Cox v. Louisiana, supra.*

*Petitioner contends that 18 U.S.C. §112 sets forth the only restrictions that may be applied to demonstrations at foreign missions. 18 U.S.C. §112 is a federal statute that makes it a crime to intimidate, threaten, coerce or harass foreign officials. As such it of course does not limit the powers delegated to the Police Department by §435 of the Charter, and, in fact, it contains a non-preemption provision at

(footnote cont'd. on next page)

The reasonableness of restrictions on demonstrations is a function of the character of the chosen forum, including the nature of the usual activity carried on there, the interest of the state in protecting that activity, and the topography of the site. Grayned v. City of Rockford, 408 U.S. 104, 116 (1972).

The nature of the activity carried on in certain places, jails, for example, may preclude all demonstrations

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(footnote cont'd. from previous page)

*Section 3. That Congress did not intend 18 U.S.C. §112 to abridge the exercise of first amendment rights, as petitioner further argues, is correct, but begs the question. The court below held that first amendment rights do not include demonstrating at the Soviet Mission in a manner other than that now permitted.

there. Adderley v. Florida, 385 U.S. 39 (1966).

Usually, however, restrictions merely limiting access to the desired forum are sufficient to protect the interests competing there. United States v. Aarons, 310 F. 2d 341 (2d Cir. 1962) (restrictions against demonstrating within a thousand yards square of launching site of nuclear submarine held to strike an appropriate balance between the interest in expressive activity and the government's interest in protecting property deemed essential to the interests of the United States); Int'l Soc'y for Krishna Consciousness v. McAvey, 450 F. Supp. 1265 (S.D.N.Y. 1978) (motion for preliminary injunction against enforcement of restrictions prohibiting more than ten

members of plaintiff's organization from soliciting in the World Trade Center denied on tne ground restrictions were necessary to ensure orderly flow of traffic). See, also, most pertinently, Greenberg v. Murphy, 329 F. Supp. 37 (S.D.N.Y. 1971) and Rubenstein v. Murphy , 71 Civ. 2291 (S.D.N.Y. May 26, 1971) (holding similar restrictions on demonstrations at the U.S. Mission to the United Nations and the Soviet Mission respectively were essential for the furtherance of the government interest in protecting the Missions and their personnel).

The court below correctly applied these principles in upholding the challenged regulations. It found there was an overriding substantial governmental interest in protecting the premises and personnel of foreign

officials with a suitably peaceful environment in which to carry out their duties, is constitutionally permissible.

(2)

The court below also considered the pervasive and unique history of violence at the Soviet Mission in holding that the restrictions herein were reasonable and necessary.

Petitioner argues that this was improper because this Court has held that an expectation of violence does not justify restrictions on expression, citing Police Department of Chicago v. Mosley, 408 U.S. 92 (1972) and Tinker v. Des Moines School District, 393 U.S. 503 (1969). Petitioner concludes that, despite the testimony of police experts to the contrary, precautionary measures coupled with the police powers of arrest would be sufficient to protect

the Mission.

The cases cited do not support that conclusion. This Court has not held that a city must rely exclusively "on a policeman's club" to protect the public peace and its citizens' lives and safety. Milk Wagon Driver's Union Local 75 v. Meadowmoor Dairies, Inc., 312 U.S. 287 (1941). Nor are sanctions applied after the fact sufficient to protect the interests involved here.

The Police Department of Chicago v. Mosley, supra, involved a challenge to an ordinance prohibiting all picketing within 150 feet of a school, except peaceful picketing of any school involved in a labor dispute. The city argued that because as a class nonlabor picketing was more prone to produce violence than

labor picketing it may be prohibited. This Court replied that "predictions about imminent disruption from picketing involve jdugments appropriately made on an individualized basis, not by means of broad classifications, especially those based on subject matter." Id. at 100-01.

That is not the case here. The Police Department's apprehension of violence is materially substantiated by past experience. Its prediction of violence is the result of "judgments

appropriately made on an individualized basis." (Tr. 125).

Petitioner's reliance on Tinker v. Des Moines School Dist., supra, is similarly misplaced. Tinker involved three public school pupils who were suspended from school for wearing black armbands to protest the Vietnam war because the school authorities feared a disturbance from the wearing of the armbands. This court held that because there was no showing that engaging in the forbidden conduct would materially and substantially interfere with the requirements of appropriate discipline in the operation of the school the prohibition could not be sustained.

Tinker is inapplicable here for two reasons. First, the holding in

Tinker explicitly excepted group demonstrations. 393 U.S. at 508. Furthermore, the language from Tinker quoted by petitioner "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression," is not applicable to this case. It is not merely a "disturbance" the police fear from unrestrained demonstrations on the Mission block. The police fear armed conflict with Mission security personnel and an increased risk of terrorist activity (Tr. 125, 134). This fear is not "undifferentiated." It is based on substantial empirical evidence, hundreds of demonstrations at the Mission, and many instances of terrorism (Tr. 99), evidence evaluated by policemen of good will and much

experience, that unrestrained demonstrations on the Mission block cause disruption. Indeed, even the restrictions are not always sufficient to avert disruption (Tr. 124).

Just as the police would not be expected to stand between demonstrators and an inanimate hazard such as a nuclear submarine, United States v. Aarons, supra, and hope that a deployment of sufficient numbers of police officers to enforce the law through arrest and indictment, without more, such as restrictions as to how close the demonstration may be to the hazard, will prevent tragedy, so should they not be expected to rely on only those expedients here.

B. THE POLICE DEPARTMENT'S PRACTICE WITH RESPECT TO THE USE OF AMPLIFIED SOUND DOES NOT VIOLATE THE FIRST AMENDMENT.

The decision of the court below with respect to the use of amplified sound is consistent with this Court's prior holdings.

Prior to entry of the order in Millan House v. Murphy, supra, only demonstrators in the overflow areas were permitted to use amplified sound, not demonstrators in the immediate vicinity of the Soviet Mission.

Since that decision, however, the police are evaluating separately each request for a permit authorizing the use of amplified sound equipment at the demonstration site in the immediate vicinity of the Mission.

These restrictions are constitutionally permissible under the standards promulgated by this Court for the regulation of amplified sound. See, Saia v. New York, 334 U.S. 558 (1948); Kovacs v. Cooper, 336 U.S. 77 (1949).

This Court has consistently held that reasonable restrictions on the use of sound equipment are constitutional. In Saia v. New York, supra, this Court overturned a conviction for violation of a regulation banning the use of sound equipment city-wide without first obtaining a permit from the chief of police on the ground that the regulation gave the chief of police uncontrolled discretion. Implicit in this Court's decision, however, was its recongnition

of the right of a local government to constitutionally regulate the hours and places sound equipment may be used:

> There are no standards prescribed for the exercise of [the chief of police's] discretion. The statute is not narrowly drawn to regulate the hours or places of use of loudspeakers.... 334 U.S. at 560.

Similarly, in Kovacs v. Cooper, 336 U.S. 77 (1948), this Court, in upholding a Trenton, New Jersey ordinance prohibiting the use of any vehicles with sound amplifiers emitting "loud and raucous noises," observed:

> While this Court ... has invalidated an ordinance forbidding a distributor of pamphlets or handbills from summoning householders to their doors to receive the distributor's writings, this was on the ground that the home owner could protect himself from such intrusion by an appropriate sign 'that

> he is unwilling to be disturbed.' The Court never intimated that the visitor could insert a foot in the door and insist on a hearing. The unwilling listener is not like the passerby who may be offered a pamphlet in the street but cannot be made to take it. In his home or on the street he is practically helpless to escape this interference with his privacy by loud speakers except through protection of the municipality. 336 U.S. at 81-82.

A ban on the use of sound equipment similar to the one herein was recently upheld in A Quaker Action Group v. Morton, supra, 516 F. 2d 717. There, the court upheld a Department of Interior regulation banning the use of sound amplification equipment on the White House sidewalk on the ground that: "[t]here is ample justification in the government's legitimate asserted interest in keeping the White House

staff free of undue distractions from their work." 516 F. 2d at 734. Nor do anyof the other cases relied on by petitioner support its position, e.g., Maldonado v. County of Monterey, 330 F. Supp. 1228 (N.D. Cal. 1971). The denial of the use of amplified sound creates no difficulty for petitioner comparable to that of communicating with migrant farm workers during the crucial summer months.

The federal government's duty to protect foreign missions under international law includes the obligation to preserve the tranquility of a mission's environment so that foreign officials are free to carry on their work. The Vienna Convention on Diplomatic Relations of 1961 provides, for example, that the receiving state "is under a

special duty ... to prevent any disturbance of the peace of the mission." Also, 18 U.S.C. §112 makes it a crime to "obstruct a foreign official in the performance of his duties."

The use of amplified sound equipment on the sidewalk in front of the Soviet Mission would disturb the peace of the Mission and distract the occupants of the Mission from their work. Therefore, a ban on the use of sound equipment in front of the Soviet Mission is reasonable and necessary.

Clearly, then, as the court below found, the ban on the use of amplified sound equipment on the sidewalk in front of the Soviet Mission, being narrowly limited as to place and necessary to further the government's interest in providing foreign

officials with a suitably peaceful environment in which to carry out their duties, is constitutionally permissible.

C. THE CONFLICT BETWEEN THE DECISION BELOW AND A DECISION OF THE DISTRICT OF COLUMBIA CIRCUIT POSITED BY PETITIONER IS ILLUSIVE.

Contrary to petitioner's contention there is no conflict between the decision below and that of the District of Columbia Circuit in A Quaker Action Group v. Morton, 516 F. 2d 717 (D.C. Cir. 1975), relied on by the court below. Rather, the decisions are consonant.

In A Quaker Action Group v. Morton, supra, the court upheld Department of Interior regulations governing picketing on the public sidewalk in front of the White House. Those regula-

tions are similar in purpose and effect to those at issue herein, a conclusion supported by a comparison of the facts in both cases. However, in comparing the two holdings the crucial difference between them must be kept in mind, i.e., in the District of Columbia Circuit case the governmental interest in foreign relations, on which the instant case turns, was not present.

The White House sidewalk is 765X35 feet in area, many times larger than the Mission block. Between 4,380 and 6,510 people can occupy the White House sidewalk and still leave a pedestrian corridor. A Quaker Action Group v. Hickel, 421 F. 2d 1111, 1117 n. 13 (D.C. Cir. 1968). However, based on the government's interest in the security of the president the court

upheld a regulation allowing only 750 people to gather there.

Also, during the years 1965-1972 there were 154 demonstrations in front of the White House. There were incidents of violence in only six. A Quaker Action Group v. Morton, 362 F. Supp. 1161, 1167 (D.D.C. 1973). There were at least as many demonstrations in front of the Soviet Mission during a similar period of time and many more incidents of violence.

The White House sidewalk is a unique and appropriate situs for the exercise of first amendment rights. The same cannot be said of the Soviet Mission. Therefore, restraints on demonstrations at least as restrictive as those upheld for the White House would be reasonable for the Soviet Mission, especially if

the much more restricted and congested nature of 67th Street, the closer proximity of the Mission to the sidewalk, the presence on that block of a fire house, police precinct, school and apartment buildings, and the governmental interest in protecting foreign relations are taken into account.

Finally, the fact that sound equipment may be used in Lafayette Park but not necessarily in the demonstration area in this case does not distinguish the holdings. Lafayette Park is far more than 108 feet from the White House. Also, rather than a large, open park, the Soviet Mission faces a narrow street that is inappropriate for demonstrations because it contains public facilities whose central purposes require

tranquility (Tr. 128). Accordingly, the use of sound devices in Lafayette Park is analogous to the use of sound devices in the adjacent overflow demonstration areas at the Mission.

Accordingly, contrary to petitioner's assertion that these two cases are in conflict, they are consistent with and support each other.

The respondents herein accept most willingly the proposition that speech and other expressive conduct enjoy special favor under the Constitution. However, no respected commentator today suggests that such conduct can in no way be regulated to protect other societal interests and values. Here, even the petitioner accepts that such a balancing of

interests is required; it, however, would insist that it have the last word in striking the balance. The District Court, which heard the testimony of experienced police officers as to the real hazards attendant upon large-scale, noisy demonstrations at this site, and the Court of Appeals agreed with the respondents that the restrictions imposed were reasonable and necessary.

## Conclusion

The petition for a writ should be denied.

January 13, 1981

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